



1120.42742X00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: K. I. PEDERSEN

Serial No.: 10/608,158

Filing Date: June 30, 2003

For: FAIR SCHEDULING WITH GUARANTEED MINIMUM
PARAMETER

Attention: MS Missing Parts

SUBMISSION OF DECLARATION UNDER 37 CFR §1.63

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

October 7, 2003

Sir:

In the matter of the above-identified application, which was originally filed on June 30, 2003 without a Declaration, and responsive to the Notice to File Missing Parts of Application Filing Date Granted dated September 23, 2003, please find attached hereto a Declaration for submission under 37 CFR §1.63, executed by each of the inventors in the above-identified application.

A Credit Card Payment Form authorizing the requisite \$130.00 fee is attached. Should any additional fees become due in connection with the filing of this Declaration, please charge Deposit Account No. 01-2135 (Case No. 1120.42742X00).

Respectfully submitted,

Carl I. Brundidge
Registration No. 29,621
ANTONELLI, TERRY, STOUT & KRAUS, LLP

CIB/jdc
Enclosures
703/312-6600



Attorney's Docket No.: 1120.42742X00

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As a below named inventor, I hereby declare that: my residence, post office address and country of citizenship are as stated below, next to my name; I believe I am the original, first, and sole inventor (if only one name is listed below) or an original, first, and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: **FAIR SCHEDULING WITH GUARANTEED MINIMUM PARAMETER**

the specification of which

_____ is attached hereto.

X was filed on June 30, 2003 as

United States Application Number 10/608,158

or PCT International Application Number _____

and was amended on June 30, 2003.

(if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment referred to above. I acknowledge the duty to disclose all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d), of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

<u>Prior Foreign Application(s)</u>	<u>Priority Claimed</u>
<u>03009923.8</u> (Number)	<u>Europe</u> (Country)
<u>30/April/2003</u> (Day/Month/Year Filed)	<u>Yes</u> <u>No</u>
_____ (Number)	_____ (Country)
_____ (Day/Month/Year Filed)	<u>Yes</u> <u>No</u>

I hereby claim the benefit under title 35, United States Code, Section 119(e) of any United States provisional application(s) listed below

_____ (Application Number)	_____ Filing Date
_____ (Application Number)	_____ Filing Date

I hereby claim the benefit under Title 35, United States Code, Section 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

_____ (Application Number)	_____ Filing Date	_____ (Status -- patented, pending, abandoned)
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I hereby appoint: Donald R. Antonelli, Reg. No. 20,296; Melvin Kraus, Reg. No. 22,466; William I. Solomon, Reg. No. 28,565; Gregory E. Montone, Reg. No. 28,141; Ronald J. Shore, Reg. No. 28,577; Donald E. Stout, Reg. No. 26,422; Alan E. Schiavelli, Reg. No. 32,087; James N. Dresser, Reg. No. 22,973; Carl I. Brundidge, Reg. No. 29,621; Paul J. Skwierawski, Reg. No. 32,173; Robert M. Bauer, Reg. No. 34,487; and Hung H. Bui, Reg. No. 40,415, my attorneys; of ANTONELLI, TERRY, STOUT & KRAUS, LLP with offices located at 1300 North Seventeenth Street, Suite 1800, Arlington, Virginia 22209, telephone: (703) 312-6600, fax: (703) 312-6666; with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith.

Send all correspondence to:

CUSTOMER NUMBER: 020457
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA. 22209

Direct all telephone calls and faxes to:

TEL: (703) 312-6600
FAX: (703) 312-6666

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of Sole/First Inventor Klaus Ingemann PEDERSEN

Inventor's Signature

Date

18/08/03

Residence Aalborg, DENMARK

(City, State)

Citizenship DENMARK

(Country)

Post Office Address Laesogade 9, 3th 9000 Aalborg, DENMARK

Full Name of Second/Joint Inventor _____

Inventor's Signature _____

Date _____

Residence _____

(City, State)

Citizenship _____

(Country)

Post Office Address _____

Full Name of Third/Joint Inventor _____

Inventor's Signature _____

Date _____

Residence _____

(City, State)

Citizenship _____

(Country)

Post Office Address _____

Title 37, Code of Federal Regulations, Section 1.56
Duty to Disclose Information Material to Patentability

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) Prior art cited in search reports of a foreign patent office in a counterpart application, and
 - (2) The closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.
- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and
- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
 - (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

- (c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
- (1) Each inventor named in the application;
 - (2) Each attorney or agent who prepares or prosecutes the application; and
 - (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.